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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,800	08/02/2001	Pascal Agin	Q65594	4292

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EXAMINER

BUI, BING Q

ART UNIT PAPER NUMBER

2642

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/919,800	<b>Applicant(s)</b> AGIN, PASCAL	
	<b>Examiner</b> Bing Q Bui	<b>Art Unit</b> 2642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-19 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1 have been considered but are moot in view of the new ground(s) of rejection.
2. Claims 1-19 are pending in the application for examination.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 3-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 3, the limitation of "the relative net bit rate" and "the gross bit rate" lack antecedent basis. Furthermore, these limitations show no connection at all with claim 1 because as to claim 1, the quality of signal transmission via a radio link is evaluated in accordance with the net bit rate of the signal and has nothing to do with "the relative net bit rate" and "the gross bit rate". Due to the aforementioned problem, Examiner is unable to make any assumption that enables Examiner to find any appropriate art for rejection.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1 and 11-19 rejected under 35 U.S.C. 102(e) as being anticipated by Fayad et al (US Pat No. 6,697,776), herein after referred as Fayad.

Regarding claim 1, Fayad teaches a method of evaluating the quality of a radio link in a mobile radio communication system (see col. 2, Ins 13-19), said method comprises:

determining a net bit rate transmitted on said link (see fig. 1; and col. 3, Ins 25-58; and col. 4, In 63-col. 5, In 7, wherein the net bit rate of clean speech 101 for example is determined using horizontal axis) ; and

evaluating said quality in accordance with the determined net bit rate (see fig. 1; and col. 3, lns 25-58; and col. 4, ln 63-col. 5, ln 7, wherein the quality of the net bit rate of clean speech 101 for example is evaluated using vertical axis).

Regarding claim 11, Fayad teaches the mobile radiocommunication system for implementing the method claimed in claim 1 and adapted to evaluate the quality of a radio link from the net bit rate transmitted on said link (see fig. 1; and col. 3, lns 25-58; and col. 4, ln 63-col. 5, ln 7, wherein the quality of the net bit rate of clean speech 101 for example is evaluated using vertical axis).

Regarding claim 12, Fayad teaches the system claimed in claim 1 wherein said link is an uplink (col. 3, lns 25-58; and col. 4, ln 63-col. 5, ln 7)

Regarding claim 13, Fayad teaches the system claimed in claim 1 wherein said link is a downlink (col. 3, lns 25-58; and col. 4, ln 63-col. 5, ln 7).

Regarding claim 14, Fayad teaches the mobile radiocommunication network entity for implementing the method claimed in claim 1 and adapted to evaluate the quality of a radio link from the net bit rate transmitted on said link (col. 3, lns 25-58; and col. 4, ln 63-col. 5, ln 7).

Regarding claim 15, Fayad teaches the entity claimed in claim 14 wherein said link is an uplink (col. 3, lns 25-58; and col. 4, ln 63-col. 5, ln 7).

Regarding claim 16, Fayad teaches the entity claimed in claim 14 wherein said link is a downlink (col. 3, lns 25-58; and col. 4, ln 63-col. 5, ln 7).

Regarding claim 17, Fayad teaches the mobile station for implementing the method claimed in claim 1 and adapted to evaluate the quality of a radio link from the net bit rate transmitted on said link (col. 3, lns 25-58; and col. 4, ln 63-col. 5, ln 7).

Regarding claim 18, Fayad teaches the mobile station claimed in claim 17 wherein said link is a downlink (col. 3, lns 25-58; and col. 4, ln 63-col. 5, ln 7).

Regarding claim 19, Fayad teaches the mobile station claimed in claim 17 wherein said link is an uplink (col. 3, lns 25-58; and col. 4, ln 63-col. 5, ln 7).

#### ***Allowable Subject Matter***

7. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art in general:

U.S. Pat. No. 6,308,065

U.S. Pat. No. 6,728,233

U.S. Pat. No. 6,859,501

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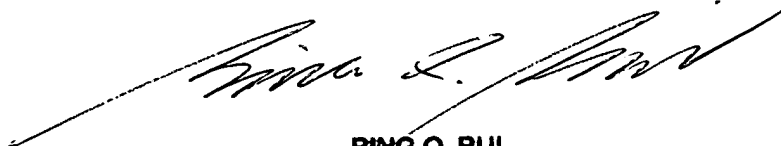
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bing Bui whose telephone number is (703) 308-5858.

The examiner can normally be reached on Monday through Thursday from 7:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 and for formal communications intended for entry (please label the response ☐EXPEDITED PROCEDURE☐) or for informal or draft communications not intended for entry (please label the response "PROPOSED" or "DRAFT").

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

09 Mar 2005



**BING Q. BUI**  
**PRIMARY EXAMINER**